

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Newport News Division

DAVID ANTHONY RUNYON,

Petitioner,

v.

ACTION No. 4:15cv108

[ORIGINAL CRIMINAL No. 4:08cr16-3]

UNITED STATES OF AMERICA,

Respondent.

ORDER


This matter comes before the court on Petitioner's Motion to Expand Page Limits for Proposed Findings of Fact and Conclusions of Law, to which the United States objects. ECF No. 911 ("Motion to Expand Page Limits"). Petitioner requests expansion of the Proposed Findings of Fact and Conclusions of Law from thirty (30) pages, see ECF No. 909 (citing E.D. Va. Loc. Civ. R. 7(f)(3)), to sixty (60) pages. Upon due consideration, the court **GRANTS** the Motion in part and **DENIES** in the Motion in part for the reasons set forth below.

At a threshold level, the submission of Proposed Findings of Fact and Conclusions of Law are within the sound discretion of the court. In this case, the court directed the parties to file Proposed Findings of Fact and Conclusions of Law given that the hearing lasted eight (8) days in February 2023 and another seven (7) days in November 2023. The Proposed Findings of Fact and

Conclusions of Law are only an aid in the court's decisional process, they are not evidence or dispositive as to matters under consideration. To the extent that the court is of the opinion that the filings need further expansion or clarification, the court may later direct oral argument thereon. However, in consideration of Petitioner's request and the matters involved, albeit they relate to one narrow issue of ineffective assistance of counsel in this lengthy habeas proceeding, all other issues having already been determined by the United States Court of Appeals for the Fourth Circuit, see United States v. Runyon, 994 F.3d 192 (4th Cir. 2021), the court will **GRANT** to both parties, the Petitioner and the Respondent, an expansion of the page limit for an additional ten (10) pages, for a total of forty (40) 8-1/2 inch by 11 inch pages, double-spaced, for the submission of the Proposed Findings of Fact and Conclusions of Law. See E.D. Va. Loc. Civ. R. 7(f)(3).

Finally, to the extent Petitioner seeks clarification on whether the Proposed Findings of Fact and Conclusions of Law may contain "limited, narrative-style briefing," ECF No. 911 at 3, that is a presentation and formatting decision for counsel to make, not for the court to direct. These experienced counsel must present the Proposed Findings of Fact and Conclusions of Law in the format they deem appropriate in their professional judgment.

IT IS SO ORDERED.

/s/   
Rebecca Beach Smith  
Senior United States District Judge

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REBECCA BEACH SMITH  
SENIOR UNITED STATES DISTRICT JUDGE

January 8, 2024